

TSMT UPDATE

| The Real Estate (Regulation and Development) Act, 2016 | **Along with Karnataka Rules, 2017.**

Introduction:

The real estate sector has rapidly grown in the recent years, but has largely been unregulated from the perspective of consumer protection. Though, consumer protection laws are available, the recourse available therein are only curative, but not preventive. In order to maintain transparency between the real estate developers and the consumers, RERA Act came into existence.

With the implementation of this Act, consumers will get the timely and satisfactory completion of projects.



The Real Estate (Regulation and Development) Act, 2016 ("RERA") is an Act of the Parliament of India which seeks to protect home-buyers as well as help boost investments in the real estate industry. The bill was passed by the Rajya Sabha on 10 March 2016 and by the Lok Sabha on 15 March 2016.

RERA has come into force from May 1, 2017. The Act overrides all existing applicable laws for the time being in force with real-estate.

Frequently Asked Questions

1. What are the objects and reasons for which the Act has been framed?

The Act is intended to achieve the following objectives:

- Ensure accountability towards allottees and protect their interest;
- Infuse transparency, ensure fair-play and reduce frauds & delays;
- Introduce professionalism and pan India standardization;
- Establish symmetry of information between the promoter and allottee;
- Imposing certain responsibilities on both promoter and allottees;
- Establish regulatory oversight mechanism to enforce contracts.

2. Does the Act cover on-going / incomplete projects?

Yes, **both** on-going/incomplete project and a future project are covered under the Act. Further with respect to on-going projects this Act shall be applicable only if Completion certificate has not been obtained from competent authority.

3. What is the time frame for registration of on-going/ in-complete projects?

The promoters of all on-going and in-complete projects which have not received completion certificate will need to register their project with the Regulator Authority, **within 3 months** of commencement of this Act.

4. What is the time limit for grant of registration by RERA?

The registration shall be granted **within the 30 days** from the day of application. Post the registration, RERA would also provide the registration number, Login ID and password. With the help of these details, you can access the website of Authority and to create his/her webpage and fill in the details of the proposed project.

5. What if the RERA Authorities do not respond to the application within the stipulated time?

In case the Authority fails to take decision within 30 days of its receipt, the project shall be deemed registered.

6. What if the registration is not obtained by the promoter?

RERA, expressly prohibits promoters from advertising or marketing or booking or selling or offering to sell a plot, apartment or building in any real estate project without getting it registered with the authority. A promoter is held liable to a penalty which may extend **up to 10 percent** of the estimated cost of the project as determined by the authority.

7. At what stage can a promoter start to advertise his project for sale ?

The promoter can advertise his project for sale after the project has been registered with the Regulatory Authority .

8. Does the Act cover both Residential and Commercial Real Estate?

Yes, RERA covers **both** Residential and Commercial Real Estate.

9. Which projects are exempt from the ambit of the Act?

The following projects do not require to obtain registration under this Act:

- ✓ Land proposed to be developed **does not exceed than 500 sq mts;**
- ✓ Number of Apartments proposed to be developed **does not exceed 8 in number;**
- ✓ Received **Completion certificate** prior to commencement of the Act;
- ✓ Repairs, renovation or re-development of Apartment, plot or building which does not involve marketing, advertisement, selling, or, new allotment.

10. What is difference between the term 'Completion certificate' and 'Occupancy Certificate'?

COMPLETION CERTIFICATE ("CC")	OCCUPANCY CERTIFICATE ("OC")
Obtained on the completion of building construction	Obtained after receiving the completion certificate
The builder or developer of the project has to apply for the CC with the local authorities (like the BDA, BBMP in Bangalore or PMC in Pune).	The builder or the buyer have to obtain the OC from the civic bodies.(like BBMP)
CC is issued only if the building standards like distance from road, height of the building, rain water harvesting system implementation, etc.	OC certifies that the building has complied with all the required building standards, local laws and it is safe to occupy. It is issued once it is certain that there is no objection to occupy the building under reference for its specified use.
CC shows that the building construction is constructed as per the plan which was approved by the concerned authorities.	Once CC is issued, the OC will be given to all buyers so that they can take possession of their flats/ properties.

11. Is promoter required to maintain separate account for every project and what are the purpose for which funds can be withdrawn ?

The promoter shall maintain a separate account for every project undertaken by him wherein **seventy percent** of the money received from the allottees shall be deposited for the purposes of construction and land cost. Further the funds can only be used for construction and land cost.

12. When can the promoter withdraw the money from a separate account?

The promoter is required to withdraw the amounts from the separate account, to cover the cost of the project, in proportion to the percentage of completion of the project. In addition, the promoter is permitted to withdraw from the separate account after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project.

13. Is the promoter required to get his accounts audited?

The promoter is required to get his accounts audited within **six months** after the end of every financial year by a **CA in practice**, and shall produce a statement of accounts duly certified and signed by such CA and it shall be verified during the audit that the amounts collected for a particular project have been utilized for the project and the withdrawal has been in compliance with the proportion to the percentage of completion of the project.

14. Can promoter collect any amount of money towards booking the Apartment/plot?

The promoter cannot accept a sum more than **10 percent** of the apartment / plot cost as an advance payment / application fees. For any further collection towards the apartment / plot cost, the promoter is required to enter into an 'Agreement for Sale' with the Allottee.

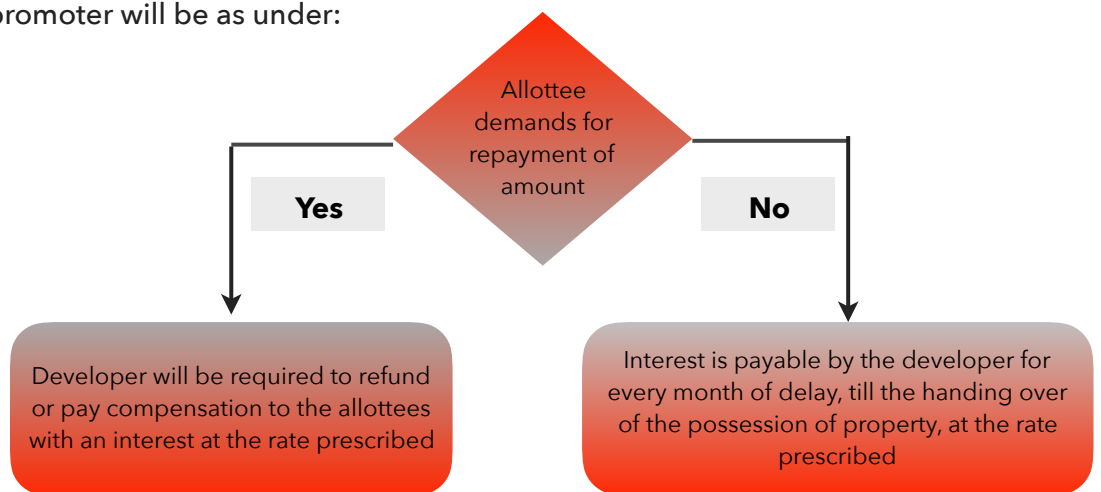
15. How is the area of property calculated and are there any changes under RERA Act, 2016 with this regard?

The area of property is often calculated in 3 different ways - **Carpet area, built-up area and super built-up area**. Hence, when it comes to buying a property, this can lead to a lot of disconnection between what the buyer pays and what he actually receives.

RERA has put an end to this, builders will have to quote prices based on **carpet area only**. Carpet area has been clearly defined in the act to mean net usable floor area of an apartment and includes area covered by the internal walls and excludes area covered by the external walls, area under service shafts, exclusive balcony, verandah or open terrace area.

16. What if the promoters fail to give possession of the property on time?

The liability of the promoter will be as under:



| Karnataka RERA Rules, 2017 |

The RERA Act, 2016 contemplates that within six months of its enforcement, State Government shall make rules for carrying out the provisions of the Act. Various state governments have notified their rules. Here we have highlighted the Karnataka RERA Rules, 2017.

The Department of Housing, Government of Karnataka is the nodal department for the implementation of RERA Act in the state of Karnataka.

All sections of the RERA Act came into force with effect from May 1, 2017. Under the RERA Act, the Karnataka Real Estate Regulation and Development Rules, 2017 was approved by Government of Karnataka and notified on July 10, 2017.

1. What are the documents required by promoter for registration of project?

- Self attested copy of **PAN Card** of the promoter;
- Annual report** including audited profit and loss account, balance sheet, cash flow statement, directors report and the auditors report of the promoter for the immediately preceding 3 financial years;
- Legal title deed** reflecting the title of promoter to the land on which development of project is proposed along with legally valid documents;
- Consent of the land owner along with self attested copy of collaboration agreement, where the promoter is not the owner of the land on which development is proposed;
- Application to the Authority for registration of the real estate project shall be made in writing in **Form 'A', in triplicate**

2. What is "Ongoing Projects"?

Ongoing Project means a project where development is going on and for which completion certificate has not been issued but excludes such projects which fulfill certain criteria prescribed.

Exclusion:

- Layouts, where the streets and civic amenities sites have been handed over to Local Authority and Planning Authority for maintenance.
- Apartments, where common areas and facilities have been handed over to the registered association consisting of majority of allottees.
- Development Works have been completed as per Act and certified by competent agency and application has been filed with the competent authority for issue of completion certificate/ occupation certificate.
- Partial Occupancy Certificate has been obtained(Partial OC is granted to large projects that are being developed in different phases or blocks. Once a specific phase is completed, the concerned authorities (BBMP / BDA-in case of Bangalore) after inspecting the building grants it a Partial OC. Simultaneously, as the next Phase finishes, partial OC is given to that as well and so on. Once the entire project is complete, Partial OC is replaced with one common OC for the entire project).

3. What are the additional documents required under Karnataka RERA for on-going projects?

As per the Karnataka Rules it is mandatory for the promoter to provide the following **additional documents** apart from the documents mentioned above for registration of Ongoing projects:

- The original sanctioned plan, plan layout, subsequent modifications carried out;
- The total amount collected from the allottees and the total amount of money used for development of the project including the total amount of balance money lying with the promoter;
- Status of the project including original time period disclosed to the allottee for completion of the project;
- Size of Apartment should be disclosed as per carpet area.

4 Whether building plan which is yet to be approved by the authority is eligible for registrations?

Projects can be registered only after the project plan has been approved by the Plan Approving Authority and issue of Commencement Certificate.

5. Is there a project registration fee under RERA?

The project registration fees depends on the type of development project, the details have been given below:

Particulars	Area of land proposed to be developed does not exceed 100 square meters	Area of land proposed to be developed exceeds 100 square meters	Limited to
Group Housing Project	Rs. 5 per square meter	Rs. 10 per square meter	5 lakh rupees
Mixed Development Project (Residential and Commercial)	Rs. 10 per square meter	Rs. 20 per square meter	7 lakh rupees
Commercial Projects	Rs. 20 per square meter	Rs. 25 per square meter	10 lakh rupees
Plotted Development Projects	Rs. 5 per square meter	Rs. 5 per square meter	2 lakh rupees

6. What is the last date for registration of Project? Is there any extension?

The last date of registration of project was 31st July, 2017. However, the Government of Karnataka had extended the due date for registration of the same till 31st August, 2017, upon payment of 100% penalty of the applicable registration amount.

7. Can the project be still registered post 31st August, 2017?

Yes, the promoters can still register the project. As per the RERA Act, 2016, a penalty of 10 percent of the estimated cost of the real estate project as determined by the Authority.

| RERA IN GENERAL |

1. What are the benefits of RERA?

Industry

- Governance and transparency in project implementation.
- Higher Project efficiency and more Robust Project delivery.
- Improves Standardization and Quality.
- Enhances confidence of investors

Developer

- Number of un-occupied properties reduces
- Every allottee shall have to make necessary payments time.
- Enhances the credibility of the builder who adhere to the rules
- Promoter can claim interest from allottees on delay in payment.

Buyer

- It helps to determine Fair market value of property.
- Safety on money and transparency on utilization
- Quality products and timely delivery
- Home buyers will have to pay only for carpet area.

ROLE OF TSMT



• Assist in registration of projects of RERA

• Audit (Internal & Statutory)

• Pre- withdrawal certificate based on % of completion.

• Representation Services

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